



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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### **3 VAC 5-20 – Alcoholic Beverage Control Board Use of Athletes and Novelty and Specialty Items January 4, 2002**

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 9-6.14:7.1.G of the Administrative Process Act and Executive Order Number 25 (98). Section 9-6.14:7.1.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

The proposed regulations will (i) allow the use of athletes or athletic teams in point-of-sale alcoholic beverage advertising materials, (ii) increase the maximum value of novelty and specialty items that may be given away to retailers by alcoholic beverage manufacturers and wholesalers from \$5 to \$10, and (iii) allow to display these trinkets on licensed premises and to distribute them to patrons on the premises.

### **Estimated Economic Impact**

Pursuant to Chapter 361 of the 2001 Acts of Assembly, the Alcoholic Beverage Control Board (the board) proposes to create an exception to the current prohibition of the use of athletes or athletic teams in alcoholic beverage advertising. The board will allow wine and beer licensees to display point-of-sale advertising materials that incorporate the use of professional athletes or athletic teams within their licensed premises. These materials must be lawful, must not depict any athlete consuming or about to consume alcohol prior to or while engaged in athletic activity,

operating a motor vehicle, or other machinery, and must not imply that the alcoholic beverages enhance athletic prowess.

Although athletes and athletic teams may be featured on television under the current regulations, only generic paper or plastic point-of-sale advertising materials may be used as advertising tools. For example, a racecar driver, or a football player wearing a helmet and without mentioning their names could currently be featured on these materials. With this amendment, their faces and names could also be featured. Wholesalers will be able to provide these materials to retailers or the retailers may choose to advertise themselves. Conversations with the industry associations indicate that the total market value of advertising materials that may be distributed in a year under the proposed rule might be up to \$500,000.

This change is likely to benefit the manufacturers and wholesalers. If additional advertising allowed by this amendment can increase the alcohol sales of a manufacturer or wholesaler, their profits are likely to increase. Manufacturers and wholesalers are likely to take advantage of the proposed change if it is beneficial for them. There may also be cost savings to the manufacturers and wholesalers, as they will be able to use their national advertising campaigns depicting such characteristics in Virginia. Since these materials are already produced and could be featured in most of the other states, wholesalers will be able to reach out to more customers without having to generate new advertising materials.

Similarly, retailers are likely to benefit from the proposed regulations because they will accept such materials if they are beneficial to them. The proposed exception will provide them an additional opportunity to promote as well. For example, retailers will be able to use a local team to attract more customers, or to promote a specific brand through local athletes or athletic teams.

The use of athletes or athletic teams in alcoholic beverage advertising has the potential to increase alcohol consumption, market share of a specific brand, or both. If the proposed changes increase the total alcohol consumption in Virginia, additional costs on the society are likely to be introduced. The social costs may stem from alcohol related accidents, aggressive behavior, diseases, and abuse. For example, based on the 1998 data, the Department of Alcoholic Beverage Control (the department) reports that 336 people were killed and 8,555 were injured in alcohol related traffic accidents. Moreover, 30,012 persons were arrested for driving under the

influence of alcohol and about 88% of these arrests resulted in convictions. These alcohol related deaths, injuries, arrests, and convictions impose costs on the society.

However, the industry argument for alcohol advertising is that the advertising does not increase the total alcohol consumption but rather affects the market share of a specific brand. Hence, the industry does not believe that alcohol advertising introduces social costs. Furthermore, the industry representatives point out the difficulty in establishing a link among advertising, alcohol consumption, and social costs. It is argued that social costs occur due to over-consumption of alcohol and advertising does not promote over-consumption. Also, the restrictions imposed on such advertising materials are expected to mitigate the negative effects of alcohol consumption. There is no data to determine if the total alcohol consumption, market share, or both would be affected, or if any, what the size of the impact on social costs would be.

Additionally, people under the legal drinking age have access to retailers and may be exposed to these advertising materials at grocery stores, convenience stores, and drug stores. If teenagers are responsive to the alcohol advertisements that incorporate athletes or athletic teams, the proposed change may promote underage drinking. However, there is no data to make a conclusive statement on the significance of this potential effect.

With another amendment, the board proposes to increase the maximum wholesale value of novelty and specialty items bearing alcoholic beverage advertising that may be given away to retailers by alcoholic beverage manufacturers, importers, bottlers, brokers, wholesalers, or their representatives from \$5 to \$10. These trinkets include key chains, shirts, caps, flashlights, baseballs, pins, stickers, buttons, lighters, and CDs. According to the department, this and the following amendment are proposed in response to industry requests made by the Virginia Beer Wholesalers Association and the Virginia Hospitality and Travel Association.

The industry representatives indicate that the current limit in the regulations has not been adjusted for inflation during the last 10 years and the inflation adjusted value of novelty and specialty items decreased substantially over time, which reduced the number of such items that may be given away. Although the proposed amount represents 100% increase in the maximum value, the U.S. consumer price index increased by only 30.7% from 1991 to 2001.<sup>1</sup> Thus, the proposed change will increase the inflation-adjusted maximum value over its 1991 level and

increase the array of novelty and specialty items that are given to the retailers. However, the increase in the total value of items that may be given away under the proposed rule is not known.

The higher maximum value is likely to provide greater latitude to alcoholic beverage manufacturers or wholesalers to promote their products through the retailers and increase the total value of such advertising items given away. Retailers have many means to promote a product. They have discretion to display a product at the front or at the eye level on the shelf or place a product near the cash register to induce purchasing. Retailers can also promote a product through price reductions. Such items may provide incentives to retailers to promote specific products. Also, this proposed change is likely to benefit retailers, as they will accept these items if it is in their best interest.

Currently, these novelty and specialty items cannot be given to patrons and cannot be displayed on the retailer's premises. Another amendment is proposed to remove these restrictions. It will be allowed to display these items on licensed premises and to distribute them to patrons on the premises, as long as they carry moderation and responsible drinking messages and any references to an alcoholic beverage manufacturer or its brands are subordinate to the message.

Most manufacturers have responsible drinking messages such as "Don't Drink and Drive" and "Please Think When You Drink." These messages may be featured on novelty and specialty items. Additionally, manufacturers have materials, including brochures, buttons, which urge party hosts to offer non-alcoholic beverages, food, and suggest ways to keep partygoers from over-consumption. These specialty and novelty items have the potential to build brand loyalty by creating a relationship between a brand name and key chain, for example, and enhancing product identification which would help producers differentiate their products from others in the market. The manufacturers may have incentives to communicate these messages to promote their product and at the same time to reduce the social costs of alcohol consumption by preventing some of the accidents. These messages may help improve public's perception of a brand name as well as of alcohol consumption. The manufacturers are likely to benefit from this change because they will be provided an additional venue to influence customer preferences and they will use this option if it is beneficial to them. Retailers are also likely to display or give

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<sup>1</sup> Source: Federal Reserve Bank of Minneapolis. 1991 CPI=136.2, 2001 CPI=178.

away these materials to customers if doing so is in their interests. In addition, this change also has the potential to positively affect customers by communicating responsible drinking messages.

The significance of this change for alcohol consumption is uncertain. It could be argued that these materials will be displayed at the retailers and the consumers who are exposed to these materials already decided to consume alcohol. However, there may be other customers at the store who did not intend to purchase alcohol, but after seeing these items, may have decided to consume alcohol.

### **Businesses and Entities Affected**

There are about 12,000 licensed alcoholic beverage retailers and 230 wholesalers in Virginia.

### **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth.

### **Projected Impact on Employment**

To the extent that the proposed regulations increase the production of specialty and novelty items, a corresponding employment increase in the trinket production industry is expected. Furthermore, if alcohol consumption increases, there may be additional employment in alcoholic beverage industry.

### **Effects on the Use and Value of Private Property**

Any increase in profits due to the production of specialty and novelty items and/or alcoholic beverages is likely to be reflected in the value of the associated businesses.